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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/807,631	04/16/2001	Yoichiro Sako	6715/62360	2292

7590 02/20/2004

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New York, NY 10036

EXAMINER
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HINDI, NABIL Z

ART UNIT	PAPER NUMBER
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2655

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DATE MAILED: 02/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/807,631

Applicant(s)

SAKO ET AL.

Examiner

NABIL Z HINDI

Art Unit

2655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 18 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-22, 24-26 and 28-43 is/are rejected.
- 7) ☐ Claim(s) 23 and 27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

In response to applicant's pre-amendment dated December 18, 2001. The following action is taken:

Applicant's claimed invention is drawn to a multi-layered optical disk wherein the objective lens is focused jumping (refocusing) from one layer to another. Such interpretation is well established in the art as acknowledged by applicant's own prior art. The claims are further drawn to the "relevant" data between the first and second layers. Such limitation is interpreted as a correlation data (TOC information, continuation data or any other data that is related and correlated between the first and the second layers on the disk).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-22, 24-26 and 28-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takasu et al (5828648) in view of Kawamura et al (6424614).

The primary reference discloses the use of a multi-layer disk having a first and second recording layers 2 and 4. the reference further includes a single light beam for focusing and un-focusing on the first and second recording layers (column 6 lines 35-57). The control means, read means and the focusing means to read the first and second recording layers are inherently present since the reference is drawn to reading a multi layer disk. However the reference does not disclose the use of "relevant" data between

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the first and second layers. The secondary reference discloses the use of a recording relevant data relating the data on the first layer with the data on the second layer as shown in column 3 lines 47-64 for the purpose of time efficiency and easy accessing from one layer to another. Thus it would have been obvious to one skilled in the art at the time the invention was made to use the teachings of the secondary reference and modify the primary reference. Such modification of recording relevant data between two information layers is a logical engineering capability in order to relate data from one layer to another. One skilled in the art would have been motivated to use the teachings of the secondary reference for the purpose of time efficiency in accessing a continuous stream of data recorded on a multi layer disk.

With respect to the limitations of claims 2, 11, and 20-22, 25 and 26. See the primary reference (column 6) shifting from one layer to another.

With respect to the limitations of claims 3-9, and 12-18. The limitations are drawn to the disk structure such as the stacking of the multi layers, the adhesive and the protection layers. See figs 1-4 corresponding to figs 1-3 of the claimed invention.

With respect to the limitations of claims 31-41. the limitations are drawn to the kind of data recorded on a disk (audio, video, lyrics...etc). It is well established in the art to record any kind of data on a disk based on the user preference.

Claims 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takasu et al in view of Kawamura et al as applied to claims 1-22, 24-26 and 28-41 above, and further in view of McPherson et al (6298025).

Takasu et al in view Kawamura et al disclose the invention as analyzed above. However the combined references do not disclose the use of a multi channel data on a disk. The reference McPherson et al discloses the use of a multi channel data on a disk for the purpose of Stereo enhanced audio recording as shown in column 1 lines 40-45. it would have been obvious to one skilled in the art at the time the invention was made to use the teachings of McPherson et al and modify the system of Takasu et al in view of Kawamura et al. such modification of using a multi channel data on a disk is well established in the art for the purpose of enhancing the audio recording quality.

Claims 23, 27 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

None of the cited prior art shows the use of a first and second memory and the use of a synthesizing means operating as claimed.

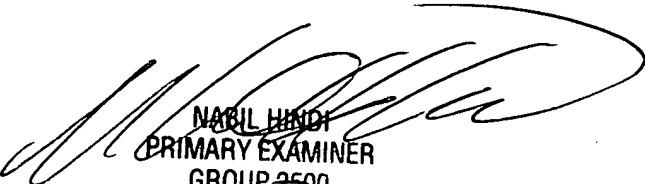
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. 6241843 and 6269065.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NABIL Z HINDI whose telephone number is (703) 308-1555. The examiner can normally be reached on mon-fri from 6:00 to 3:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To, can be reached on 305-4827. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

  
NABIH HINDI  
PRIMARY EXAMINER  
GROUP 2500  
2453